

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS
EASTERN DIVISION**

FILED
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2003 DEC 12 P 5:01

TOWN OF DUXBURY, *et al.*,

Plaintiffs,

v.

AMERADA HESS CORP., *et al.*,

Defendants.

U.S. DISTRICT COURT
DISTRICT OF MASS.

Civil Action No. 2003-12399RGS

PLAINTIFFS' MOTION FOR REMAND

The Plaintiffs, by and through the undersigned counsel, hereby move this Court for remand of the above-entitled action to the Massachusetts Superior Court, the venue in which this action was originally brought. In support of this Motion for Remand, the Plaintiffs state that there is no basis for jurisdiction in this Court, as; (a) federal preemption provides no basis for removal; (b) the complete preemption doctrine does not apply here because the Clean Air Act preserves state-law remedies and provides no substituted federal remedy; (c) Defendants cannot claim to act as officers of the United States government merely by complying with federal regulations; (d) Texaco's 1989 confirmation order does not create federal bankruptcy jurisdiction over the parties and claims in this case; and (e) based on the complete lack of jurisdictional bases, the Court should award Plaintiffs their costs and a reasonable attorney fee for the improper removal.

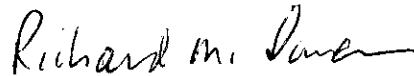
A memorandum of law in support hereof is annexed hereto.

REQUEST FOR ORAL ARGUMENT

Pursuant to Local Rule 7.1 Plaintiffs hereby request that this Motion be set for oral argument as soon as possible.

WHEREFORE, For the foregoing reasons, this Motion for Remand should be granted forthwith, and an award of costs and fees under 28 U.S.C. § 1447(c) granted.

Dated: December 12, 2003.



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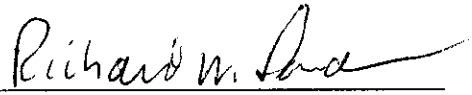
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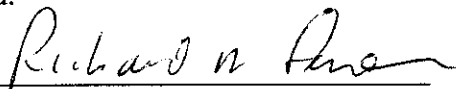
CERTIFICATE OF CONFERENCE

This is to certify that pursuant to Local Rule 7.1 I have attempted to confer with counsel for Defendants to resolve or narrow the issues contained in this Motion prior to filing of same without success.


Richard M. Sandman

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the Plaintiffs' Motion for Remand and Memorandum of Law in Support of Plaintiffs' Motion for Remand was mailed, first class mail, postage prepaid, on the 12th day of December 2003 to all Counsel of Record.


Richard M. Sandman